

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

WINFORD DALLAS JONES,	:	
	:	
Plaintiff	:	
	:	
v.	:	
	:	
C. H. ROBINSON WORLDWIDE, INC., <i>et al.</i> ,	:	
	:	
Defendants/Third Party Plaintiffs	:	
	:	Case No. 7:06-cv-00547
v.	:	
	:	
AKJ ENTERPRISES, INC., d/b/a	:	
Unlimited Express	:	
	:	
and	:	
	:	
ELSON BOLAR	:	
	:	
and	:	
	:	
DIONNIE BOLAR,	:	
	:	
Third Party Defendants.	:	
_____	:	

PLAINTIFF'S MOTION IN LIMINE

COMES NOW Plaintiff, Winford Dallas Jones, by counsel, and moves the Court to exclude and/or prohibit the admission of certain evidence at trial and in support thereof states as follows:

1. Defendant C. H. Robinson Worldwide, Inc. ("C. H. Robinson") has, at the deposition of Plaintiff's expert, Dr. Thomas Corsi, on March 13, 2008, and now

in opposition to Plaintiff's Motion for Partial Summary Judgment, attempted to make a printout of a certain web page from the current website of the Federal Motor Carrier Safety Administration ("FMCSA") a part of the Court's record. Plaintiff's counsel noted an objection to use of this document at Dr. Corsi's deposition. (See Exhibit 1, attached hereto, Deposition of Thomas M. Corsi, Ph.D., March 13, 2008, pages 64-66).

2. The document at issue, which C. H. Robinson attached as "Exhibit D" to its Opposition to Plaintiff's Motion for Partial Summary Judgment, and which is attached hereto as "Exhibit 2" for the Court's convenience, is a printout from the FMCSA's website as it appeared after February 22, 2008. This is readily apparent from the fact that the web page shown in the document references updated test scores from February 22, 2008. Defendant does, however, go so far as to suggest in its aforesaid memorandum that this is a copy of the page as it appeared in 2004. (See Defendant's Opposition to Plaintiff's Motion for Partial Summary Judgment, page 21).

3. Clearly, the document attached hereto as "Exhibit 2" does not reflect how the any such "warning" page appeared in 2004, the relevant time period in this case, and C. H. Robinson has yet to produce an authenticated copy of any such purported "warning" page, as it existed in 2004. If C. H. Robinson wishes to rely upon any such document at trial, it is Defendant's burden to produce an authenticated copy of the web page in question as it existed during the relevant time period.

4. In light of the foregoing, Plaintiff submits that the document attached hereto as "Exhibit 2" is irrelevant for any purpose in this case, and therefore, inadmissible, in the sense that it reflects the FMCSA's website as it exists more than three years after the subject collision in September of 2004. See FED. R. EVID. 401, 402.

WHEREFORE, Plaintiff requests that the Court enter an Order prohibiting the Defendant from entering into evidence at trial any copy of the aforesaid "warning" page from 2008.

Respectfully submitted,

WINFORD DALLAS JONES

s/ Gary C. Hancock
Of Counsel

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Counsel for Plaintiff, Winford Dallas Jones

CERTIFICATE OF SERVICE

I do hereby certify that I have this 18th day of April 2008 electronically filed the foregoing Motion *in Limine* with the Clerk of the Court using the CM/ECF system which will send notification of such filing to Paul C. Kuhnel, Esquire, Wooten Hart PLC, P.O. Box 12247, Roanoke, Virginia 24024-2247, Counsel for C.H. Robinson Worldwide, Inc.; C. H. Robinson Company; C. H. Robinson Company Inc.; C. H. Robinson Company LP; C. H. Robinson International, Inc.; C. H. Robinson Operating Company LP; and C. H. Robinson Transportation Company Inc.

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